SUPREME COURT, U. S.
Supreme Court, U. S.
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MICHAEL RODAK, JR.

IN THE

SUPREME COURT OF THE UNITED STATES

75-750

OCTOBER TERM, 1975

RONALD F. CALVERT,
Petitioner,

vs.

UNITED STATES OF AMERICA.

REPLY BRIEF OF PETITIONER

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INDEX

	Page
Introduction	1
Reply Brief	2
Conclusion	4
Appendix A—Newspaper article, St. Louis Globe-Democrat, January 10-11, 1976	A-1
Appendix B—Newspaper article, St. Louis Post-Dispatch, January 11, 1976	A-3

Citation

Giglio v. United States, 405 U.S. 150 (1974)	4

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INTRODUCTION

This reply brief of petitioner Ronald F. Calvert is being filed initially in typewritten form, with printed copies to be forwarded as soon as available. It is the understanding of counsel that, pursuant to the provisions of Rule 24(3) of this Court, the petition for a writ of certiorari has been distributed by the Clerk to the Court, and that the matter is set for consideration at a conference on February 20, 1976.

The petition for a writ of certiorari was docketed on November 21, 1975. To the knowledge of counsel for petitioner, no extension of time was granted to the government for the filing of its brief in opposition, but copies of the government's brief in opposition were not received by counsel for petitioner until February 17, 1976. Because of such delay, it is impossible for counsel for petitioner to file a printed reply brief prior to the date of the conference. The Court's permission to file the typewritten copies is respectfully requested.

REPLY BRIEF

Pursuant to Rule 24(4) and 24(5) of this Court, petitioner submits the following reply to the government's brief in opposition:

On pages 8 and 9 of its brief in opposition, the government discusses the inducements to Charles Hintz and suggests to this Court that during the trial defense counsel was aware of relocation payments to Hintz. There is absolutely no foundation in the trial record for the statement on page 8 that "although he (defense counsel) was aware that Hintz, like Alsop, had been relocated pursuant to that same (witness relocation) program," or the statement on page 9 that "the record shows that petitioner was aware before Hintz testified that Hintz, like Alsop, had been relocated pursuant to the witness relocation program . . ." When Hintz testified, there was nothing to indicate to defense counsel that Hintz was receiving any monetary or other benefits under the witness relocation program. In fact, the government's representations were to the contrary, for in response to direct inquiry by defense counsel and the trial Court, government counsel failed to disclose, and in fact concealed, the monetary payments to Hintz. The discussion in chambers was as follows (Tr. 483-484):

> "Mr. Baris (Defense counsel): I'd like to request of the Government to indicate as to whether any promises, immunity or other benefits have been granted to this witness.
>
> Mr. Coonan (Government counsel): You can inquire.
>
> Mr. Baris: I can inquire——
>
> Mr. Coonan: Of him.
>
> Mr. Baris: Well, I think the Government is under a duty to disclose.

Mr. Coonan: Well, whether it is or not, I'll tell you. He has had no promises of immunity and the only other promises we've made him is that Ronnie Calvert or any of his friends won't be able to kill him if we can prevent it.

The Court: Have any other benefits been given to him?

Mr. Coonan: Other than the normal benefits associated with witness protection.

Mr. Baris: All right."

It was not until the government filed its brief in the Court of Appeals that there was any reference to the witness relocation program. For the first time the government admitted (page 38 of its brief in the Court of Appeals) that "prior to trial Mr. and Mrs. Alsop and Charles Hintz were relocated for their safety pursuant to the witness relocation program." The government has not referred this Court to any specific place in the trial record where government counsel advised the defense that Hintz had been relocated or was receiving relocation payments.

Now it appears that the full story of inducements to Hintz has still not been revealed by the government. Recently there were articles in the St. Louis newspapers indicating even greater inducements to Hintz than those admitted in the Court of Appeals. Attached to this Reply Brief are copies of newspaper articles which appeared in the St. Louis Globe-Democrat of January 10-11, 1976 (Appendix A) and the St. Louis Post-Dispatch of January 11, 1976 (Appendix B). The articles reveal that not only Hintz but also his girl friend "had been given new identities and relocated." Certainly benefits to his girl friend would be inducements to Hintz and a relevant factor in determining his credibility.*

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* This recent revelation as to Hintz's girl friend is also relevant to another issue which was raised in the Court of Appeals (Pet. App. A-11) but which, in the interests of brevity, was not a question pre-

We suspect that the entire story of inducements to Hintz and others closely associated with him has still not been fully revealed. Only by the command of this Court can the facts come to light. If the Department of Justice were required to disclose all details of inducements to their witnesses in this case, we believe there would be no doubt of the concealment and misrepresentation by the government at the trial.

We respectfully submit that *Giglio v. United States*, 405 U.S. 150 (1972), requires such disclosure and necessitates a reversal of petitioner's conviction.

CONCLUSION

For the reasons set forth in the petition for writ of certiorari, as well as the reasons set forth herein, it is respectfully submitted that the petition for writ of certiorari should be granted.

Respectfully submitted

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sented in this petition. The trial Court would not allow petitioner to cross-examine Hintz concerning his relationship with the girl friend and to inquire whether he had taken her across state lines and shared quarters with her (Hintz Tr. 72-73). The purpose of such cross-examination was to reveal a Mann Act violation and to develop whether Hintz had been granted immunity in return for his testimony in this case. Now the revelation of benefits for the girl friend as well as Hintz brings the issue of restriction of his cross-examination into sharper focus.